SBCivil Writ Petition No.705/2003

RSRTC, Jaipur & Anr. Vs. Bajrang Lal & Anr.

Date of Order :: 6th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sangeet Lodha, for the petitioners.
Mr. SKM Vyas, for the respondents.

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By this petition for writ a challenge is given to the correctness, validity and propriety of the award dated 8.10.2002 passed by learned Judge, Labour Court, Udaipur. The Labour Court while answering the reference made to it by appropriate government held that removal of the respondent workman is not just and proper and, therefore, ordered for his reinstatement in service.

It is contended by counsel for petitioners that the respondent workman was removed from service as a measure of punishment and the Labour Court while interfering with the order of penalty on the count that the penalty is disproportionate has exonerated the workman absolutely and the workman has been left without subjected to any punishment for a proved misconduct. It is further contended that the penalty of removal was imposed upon the workman after holding regular disciplinary proceedings and that was found fair, as such there was no occasion for the Labour Court to interfere with the order passed by the disciplinary authority.

In reply to the writ petition it is contended by the respondent workman that the Labour Court rightly interfered with the order of disciplinary authority being disproportionate to the guilty proved.

Heard counsel for the parties.

The respondent workman was subjected to a disciplinary inquiry for two charges, those are:

> (1)the workman on 12.8.1981 unauthorisedly driven a vehicle No.6383 and met with an accident and consequence thereto there was loss of some diesel and the diesel tank constructed to store diesel at Nagaur Depot, and
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> (2)the workman without having a valid ticket travelled in a bus of petitioner Corporation on 24.12.1981.

For the allegations above the disciplinary authority found the workman guilty and imposed a penalty of removal from service. The penalty aforesaid was found disproportionate to the delinquency and, therefore, the same is set aside by the award impugned. It is pertinent to note that the workman himself in entire reply to the writ petition nowhere said that the inquiry conducted against him was not

fair. The sole emphasis of the workman is that the penalty imposed was disproportionate and, therefore, the Labour Court rightly interfered with that. I am is also of the view that the allegations against the workman are not so serious that may warrant imposition of penalty of removal from service. However, the Labour Court while holding the penalty of removal disproportionate should have substituted it by some other suitable penalty. The Labour Court is having wide powers to do so by the force of Section 11-A of the Industrial Disputes Act, 1947.

The respondent workman admittedly found guilty for causing a loss of diesel by driving a bus unauthorisedly at Nagaur Depot and also travelled in a bus of corporation without having valid ticket, therefore, a suitable punishment is certainly required to be imposed upon him. I could have remanded the matter to the Labour Court to pass an order afresh to reconsider the issue for substituting penalty but looking to the fact that the workman has already been reinstated in service in pursuant to the award dated 8.10.2002 and now remission of the case will unnecessarily burden the trial court to decide a trivial issue, I consider it appropriate to modify the award impugned dated 8.10.2002 by imposing a penalty of stoppage of two annual grade increments with cumulative effect upon the respondent workman.

Accordingly, in the terms above this petition for writ is disposed of.

No order to cost.

(GOVIND MATHUR),J.

kkm/ps.